

APPEAL NO. 021555
FILED AUGUST 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 21, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury; that she timely reported her alleged injury; and that she did not have disability because she did not sustain a compensable injury. In her appeal, the claimant essentially argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. The claimant also asserts error in the hearing officer's having excluded three of her exhibits and contends that the hearing officer "did not review any information, but had his mind made up regardless of the submitted evidence and testimonies." The file does not contain a response to the claimant's appeal, from the respondent (carrier).

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury. The question of whether the claimant sustained the alleged injury was a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 000074, decided February 25, 2000. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer was not persuaded that the testimony and evidence presented by the claimant was sufficient to satisfy the claimant's burden of proving that she was injured as a result of performing repetitive physically traumatic activities at work. The hearing officer was acting within his province as the trier of fact in so finding. Our review of the record does not reveal that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that she did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

We find no merit in the claimant's assertion that the hearing officer erred in excluding Claimant's Exhibits Nos. 7, 8, and 9. Those documents were not timely exchanged and the hearing officer was not persuaded that good cause existed for the claimant's failure to timely exchange them. The hearing officer did not abuse his discretion in so finding and, as a result, he did not err in excluding those exhibits. Similarly, we cannot agree that the hearing officer did not consider the evidence and

testimony in reaching his determinations as the claimant asserts. In his statement of the evidence, the hearing officer specifically noted that he considered all of the evidence and the claimant does not point to any evidence in support of her assertion to the contrary.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge